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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,091	07/02/2003	Theodore M. Lach III	13822	5805

7590 11/15/2007
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EXAMINER

JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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11/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/612,091	Applicant(s) LACH ET AL.	
	Examiner Monique R. Jackson	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed 8/24/07 has been entered. Claims 1, 7 and 9-20 are pending in the application. Claims 10-20 have been withdrawn from consideration. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

2. Claim 1 is rejected under 35 U.S.C. 102(a) or 102(e) as being anticipated by Walther et al (USPN 6,319,969.) Walther et al teach an interpolymer composition comprising about 25 to about 95 weight percent of an ethylene random interpolymer (*reads upon claimed ethylene polymer other than EVA*), about 5 to about 75 weight percent of a blending polymer such as EVA, about 0.01 to about 95 percent by weight of the composition, of a filler, and about 0.25 to about 50 percent by weight of a processing aid including hydrocarbon resins, wherein when using a filler of medium density such as calcium carbonate the amount is from about 30 to about 85% by weight (Col. 13, lines 4-Col. 16, line 67.)

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Davis et al (USPN 5,859,114.) Davis et al teach an adhesive tape composition for bonding two components including a polymer blend of ethylene-propylene-diene terpolymer and at least one fully saturated adhesive-enhancing polymer such as EVA, in an amount of at least 50 parts by weight of the EPDM and up to 50 parts by weight of the adhesive-enhancing polymer, for a total of 100 weight parts of the polymer blend; and further comprising 50-250 phr of a tackifying resin, and 5-35 phr of a filler such as calcium carbonate (Abstract; Col. 6, line 22-63; Col. 9, line 37-67; Col. 11, line 8-Col. 13, line 19.) Davis et al further teach that the composition comprises a cure

package comprising a curing agent and at least one organic accelerator to effect at least partial crosslinking or curing of the adhesive via heat (Col. 13, lines 38-Col. 14, line 60; Examples.)

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wheeler (USPN 6,110,985.) Wheeler teaches a foam vibration damping material that is heat-activated to fill the space between two components, wherein the damping material comprises 1-20 weight percent of an elastomeric polymer including an ethylene-propylene terpolymer; 20-60 weight percent of a thermoplastic polymer, preferably EVA; 0.5-18 weight percent of a tackifier, preferably a terpene or hydrocarbon resin; 20-50 weight percent of an inorganic filler such as calcium carbonate, and 0.2-7 weight percent of a blowing agent (Abstract; Figure 1; Col. 2-3.)

5. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hanley IV et al (USPN 6,150,428; Hanley '428.) Hanley '428 teaches an heat-activated sealant composition comprising about 10 to about 60wt% a grafted-anhydride ethylene polymer, about 1 to about 10 wt% of an epoxide terminated polymer (*reads upon the claimed epoxy resin*), about 1 to about 50wt% of a filler polymer which is preferably ethylene-vinyl acetate, about 1 to about 15wt% of a rubber-like constituent including ethylene copolymers, from about 1 to about 15wt% of a processing aid which is preferably polyethylene wax, about 1 to about 15wt% of a hydrocarbon tackifier, and about 1 to about 20wt% of a filler which is preferably calcium carbonate (*wherein the Examiner takes the position that "about 20wt%" reads upon the claimed "calcium carbonate inert filler material in a concentration of about 25 percent"*; Abstract; Col. 6, line 48-Col. 8, line 7.)

6. Claims 1 and 7 are rejected under 35 U.S.C. 102(a) or (e) as being anticipated by Hanley IV et al (USPN 6,281,260; Hanley '260.) Hanley '260 teaches an heat-activated sealant

composition comprising about 10 to about 60wt% a grafted-anhydride ethylene polymer, about 1 to about 10 wt% of an epoxide terminated polymer (*reads upon the claimed epoxy resin*), about 1 to about 50wt% of a filler polymer which is preferably ethylene-vinyl acetate, about 1 to about 15wt% of a rubber-like constituent including ethylene copolymers, from about 1 to about 15wt% of a processing aid which is preferably polyethylene wax, about 1 to about 15wt% of a hydrocarbon tackifier, and about 1 to about 20wt% of a filler which is preferably calcium carbonate (*wherein the Examiner takes the position that "about 20wt%" reads upon the claimed "calcium carbonate inert filler material in a concentration of about 25 percent"*; Abstract; Col. 6, line 53-Col. 8, line 18.)

Claim Rejections - 35 USC § 103

7. Claims 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hanely '428 or Hanley '260. The teachings of both references are discussed above and though both references teach the incorporation of an epoxide-terminated polymer which reads upon the claimed epoxy resin, the references do not teach the incorporation of an activator present in a "concentration of about less than one percent" as instantly claimed. However, the use of an epoxy activator in conjunction with an epoxy resin would have been obvious to one having ordinary skill in the art at the time of the invention wherein typical amount are less than 1 percent which is known to be sufficient to activate the epoxy resin.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 7 and 9 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 10:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Monique R. Jackson
Primary Examiner
Technology Center 1700
November 13, 2007